IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.137 OF 2003

Laxman Hari Thukrul ...Applicant
V/s.
Sulochana Laxman Thukrul ...Respondent

Mr.M.I. Para for the Applicant.
Smt.M.M. Deshmukh, APP, for the Respondent State.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.
DATE : 19TH APRIL, 2007.

P.C. :

1. The Applicant-husband has preferred this Criminal Revision Application impugning the order/judgement dated 22.03.2002 passed by the Family Court, Mumbai at Bandra in Criminal Miscellaneous Application No.21 of 2001 wherein the Respondent-wife claimed enhancement of maintenance by filing an application under Section 127(1) of the Cr.P.C.

2. Initially the application for maintenance came to be filed by the Respondent-wife in the Court of J.M.F.C., Deorukh at Rajapur under Section 125 of the Cr.P.C., which was registered as Criminal Miscellaneous Application No.75 of 1985. She was granted maintenance @ Rs.150/- per month which was challenged by way of preferring Criminal Revision Application No.22 of 1986 and in the said Application an order dated 14.03.1986

was passed granting enhancement of maintenance from Rs.150/- to Rs.200/- per month.

3. The Writ Petition was filed challenging the same by the Applicant-husband which was ultimately dismissed. Due to passage of time as the cost of living has increased, the Respondent-wife was required to move the Family Court, Mumbai at Bandra for enhancement of the maintenance.

4. It was her case that she has to maintain herself in a meagre amount of Rs.200/- per month as the cost of living has increased, her application for enhancement of maintenance deserves to be considered and claim that her maintenance allowance should be enhanced to Rs.1,500/- per month. It is her case that the Applicant-husband is working as a Class-IV employee in the Public Works Department and is drawing salary @ Rs.7,000/- per month. The parties led evidence on this count before the Family Court and the Family Court found that the Respondent-wife has been able to make out a case for enhancement of maintenance and enhanced the maintenance from Rs.200/- to Rs.1,000/- per month from the date of order i.e. 22.03.2002.

5. The learned counsel for the Applicant-husband submitted that the Family Court, Mumbai has failed to take note of the fact that take home salary of the

Applicant-husband is Rs.3,863/-, as he has to pay certain deductions and also repay the loan borrowed by him from the Credit Society for purchasing a house. It is further contended that the Family Court, Mumbai rejected the evidence of the Applicant-husband that the Respondent-wife is capable of maintaining herself as she is working as a Sweeper and, therefore, the impugned order/judgement dated 22.03.2002 be quashed and set aside.

6. The case of the Applicant-husband rests on his oral evidence wherein he has stated that he has seen his wife doing sweeper's work at one or two places. This by itself does not prove that the Respondent-wife does not require any enhancement in the maintenance allowance. On the other hand, the Respondent-husband who at the relevant time had put in 15 years of service in the P.W.D. Department definitely gets a salary which will be some where between Rs.7,000/- to Rs.9,000/- per month. In so far as the salary slip of July, 2001 is concerned, it reflects that after necessary deductions he was getting a sum of Rs.3,863/-. If that is the case, in normal course, the Applicant-husband is bound to pay to the Respondent-wife atleast 1/3rd of his take home salary for her maintenance.

7. In our view, taking into consideration that

maintenance includes shelter, food, clothing, medical expenses which are basic necessities of life, a person cannot survive in the metropolitan city of Bombay in a meagre sum of Rs.200/-. Even Rs.1,000/- is not sufficient to meet these bare necessities of life. Therefore, we do not find that the orders passed by the Family Court can be said to be improper or illegal. On the other hand the enhancement of the maintenance is on the lower side.

8. In so far as the contention of the learned counsel for the Applicant-husband that the Respondent-wife is capable of earning herself and does job of sweeper at two-three places would itself go to show that she is required to struggle for her survival as the amount of maintenance which has been granted is not enough for her. Therefore, no interference is called for. The Criminal Revision Application is dismissed with costs.

9. In view of the fact that we have dismissed the Criminal Revision Application, application filed by the Applicant-husband does not survive. The Registrar (Judicial) is directed to communicate this order to the Respondent-wife at the given address.

[J.N. PATEL, J.]

[A.A. SAYED, J.]